IN THE HIGH COURT OF UTTRANCHAL
AT NAINITAL

Appeal From Order No. 268 of 2002

Sri Shekhar Chand Budhani @ Munna
S/o Late Sri Kheema Nand Badhani
R/o Village Mankath Pur
P.O. Paulgarh
Tehsil Kaladhungi
District Nainital ...Appellant

Vs

1. Director General Medical & Health Uttaranchal Dehradun
2. Chief Medical Officer, Nainital
3. State of Uttaranchal through Collector, Nainital .... Respondents

Sri D.S. Parihar, learned counsel for the appellant
Sri Nand Prasad, learned counsel for the respondents

Hon'ble B.C. Kandpal, J.

This appeal under Section 173 of the Motor Vehicles Act has been preferred against the judgment and award 29.08.2002 passed by Motor Accident Claim Tribunal/District Judge, Nainital in M.A.C.T. No.66 of 2000 Sri Shekhar Chand Budhani Vs Director General Medical & Health & others.

2. Brief facts giving rise to this appeal are that on 01.11.1999 at about 08:00 p.m. the claimant was talking to one Bharat Nandan Badhani on the extreme right side of the road near Kotabagh Chauraha, Belparao, when all of a sudden vehicle Maruti Van registration No. U.P. 02C 7188 came and it hit and injured the claimant and Bharat Nandan Badhani. The said vehicle was being driven rashly and negligently by its driver. The claimant sustained grievous head injuries, apart from injuries in the abdomen and fractures on both the legs. The claimant and Bharat Nandan were taken to the Combined Hospital at Ramnagar from where as per the advice of the doctors, the claimant was taken to Vivekanand Hospital at Moradabad. He remained in the hospital for 17 days and

underwent the operation of his stomach and left leg. He was again got admitted in the Sobhan Singh Jeena Base Hospital, Haldwani where he underwent operation of his right leg. The claimant was till the presentation of his claim petition regularly went to Sobhan Singh Jeena Base Hospital, Haldwani for the treatment of the injuries. It has further alleged in the claim petition that the claimant is a marginal farmer and had to sell his agricultural land as well as 4-5 buffaloes for meeting the expenses of the medical treatment. The record further reveals that the claimant has claimed Rs. 5,00,000/- as compensation from the respondents.

3. The notices were issued to the opposite parties who filed written statement stating therein that claimant was admitted in Combined Hospital, Ramnagar for treatment of his injuries received at the time of the accident but rest of the contents of the claim petition was denied by the respondents.

4. After perusing the pleadings of both the parties, the Tribunal framed following issues:-

i) Whether Shekhar Chandra sustained injuries in accident occurred on 01.11.1999 at about 08:00p.m. near Kotabagh Chauraha Belparao, Kaladhungi, Ramnagar Road, due to rash and negligence of driver of Maruti Van (Ambulance) No. UP02C/7188 as alleged by the claimant?

ii) What amount of compensation the petitioner is entitled to get and from whom?

iii) Whether accident occurred in the manner as pleaded in Additional pleas of W.S. by O.P. if so, its effect?

iv) Whether the driver is a necessary party and as such claim petition is not maintainable for non-joinder of necessary party, as alleged by the respondent?

5. The learned Tribunal after having heard learned counsel for the parties and perusing the entire evidence available on record was pleased to award an amount of Rs. 52,000/- along with an interest of 9% per annum from the date of filing the claim petition till the date of actual payment in favour of the appellant vide judgment and award dated 29.08.2002.

6. Feeling aggrieved by the aforesaid judgment and award, the appellant has preferred this appeal for enhancing of the compensation.

7. Heard Sri B.S. Parihar, learned counsel for the appellant, Sri Nand Prasad, learned Standing Counsel for the State and perused the record.

8. The learned Tribunal has decided the issue with regard to the rash and negligent driving on the part of the driver of the vehicle bearing registration No. UP02C/7188. The learned Tribunal while deciding the issue with regard to the entitlement of compensation in favour of the appellant, perused the entire material available on record and discussed the evidence in detail with regard to the medical treatment provided to the appellant. The learned Tribunal has also discussed the income of the appellant as well as the expenditure incurred in the medical treatment.

9. The documentary evidence filed by the appellant reveals that the appellant had remained in Vivekanand

Hospital, Moradabad for 17 days and 5 ½ months in Sobhan Singh Jeena Base Hospital, Haldwani.

10. The appellant had incurred approximately Rs. 22,000/- on his treatment. This amount has been awarded in favour of the appellant by the Tribunal concerned. The Tribunal has also awarded an additional amount of Rs. 20,000/- for the expenditure incurred on conveyance, attendance and physical pain as well as mental agony. The Tribunal has also awarded an additional sum of Rs. 10,000/- for the future expenses on the medical treatment of the appellant.

11. I find myself in total agreement with the findings recorded by the Motor Accident Claim Tribunal concerned with regard to the amount awarded for compensation in his favour.

12. The impugned judgment and order dated 29.08.2002 does not require any interference and I am also of the view that no enhancement in the compensation amount awarded by the M.A.C.T. concerned is required in the instant case.

13. Thus the appeal lacks merit and is liable to be dismissed.

14. Accordingly, the appeal is dismissed.

(B.C. Kandpal, J.)

04.09.2006
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